

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In Re:)	
)	
Lewis E. Wilkerson, Jr.)	Case No. 20-34576-KLP
)	
Debtor)	Chapter 11
-----)	-----
ROBERT E. DIXON,)	
Individually and Derivatively on behalf of)	
D.E.R. LLC,)	
)	
Plaintiff)	
v.)	Adversary Proceeding
)	
LEWIS E. WILKERSON, JR. , Debtor,)	No. 21-03008- KLP
)	
Defendant)	

AMENDED PRE-TRIAL ORDER

On January 18, 2022, the Court heard the Motion to Amend and Supplement Expert Report and for other Relief (“Motion”) filed by Plaintiff Robert L. Dixon, individually and on behalf of D.E.R. LLC (“Plaintiff”). *See* Document 29. The Court considered the papers and the arguments of counsel for the parties. On the suggestion of counsel for the Plaintiff and with the acknowledgment of counsel for the Defendant/Debtor Wilkerson (“Defendant”) that continuing the trial until April 28, 2022 and entering this amended pre-trial order would grant the relief requested by the Plaintiff while avoiding potential prejudice to the Defendant by allowing the Defendant additional time as requested, deeming it proper, the Court ORDERS:

Order Proposed by:

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Co-Counsel for the Plaintiff

1. The Plaintiff's Motion is GRANTED

2. Trial is rescheduled to **April 28, 2022 at 10:00 a.m.** The trial may be conducted by electronic means, including by telephone or video conference, as directed by the Court. Additional information regarding procedures for hearings before the Court, including telephonic and/or videoconference hearings, in light of the ongoing public response to COVID-19, are available by visiting the Court's website at: <https://www.vaeb.uscourts.gov/>.

3. By their endorsement of this Order counsel represent to the Court that there are no remaining discovery issues as discussed during the January 18, 2020 hearing and counsel accordingly have requested the Court to release February 8, 2022 at 10:00 a.m. as a hearing date for consideration and resolution of any such matters.

4. The parties shall make the disclosures of expert testimony required by Rule 7026(a)(2) of the Federal Rules of Bankruptcy Procedure no later than **60 days prior to the the Trial Date**. The parties in their discretion may rely on previously filed expert disclosures, to include the the Plaintiff's expert report as set out in the Motion. If the evidence disclosed by the disclosed expert testimony is intended solely to contradict or rebut evidence on the same subject matter identified by another party under Rule 7026(a)(2)(B) of the Federal Rules of Bankruptcy Procedure, such disclosure shall be made on or before **21 days after the disclosure made by the other party**.

5. On or before **21 days prior to the Trial Date** counsel for the parties shall meet at a mutually convenient location and make a good faith effort to narrow the issues in the trial and to enter into written stipulations of any uncontroverted facts (the "Stipulation"). The Stipulation (or in lieu thereof, a joint statement of counsel that no agreement as to any uncontroverted facts could be reached) shall be filed with the Court on or before **14 days prior to the Trial Date**.

6. On or before **14 days prior to the Trial Date**, the parties shall file with the Clerk an amended list of proposed exhibits, which amended list of proposed exhibits may include additional exhibits not previously filed. The exhibits shall be filed in accordance with the directions included with the original pretrial order entered herein April 28, 2021. *See* Document 8 at 5.

7. Objections to any of the proposed exhibits shall be filed on or before **7 days prior to the Trial Date**. Exhibits to which no timely objection has been made will stand as admitted into evidence.

8. Counsel for the Plaintiff shall file a list of witnesses in accordance with Rule 7026(a)(3)(A) of the Federal Rules of Bankruptcy Procedure that the Plaintiff intends to call to testify at trial on or before **14 days prior to the Trial Date**. Counsel for the Defendant shall file a list of witnesses that the Defendant intends to call at trial in accordance with Rule 7026(a)(3)(A) of the Federal Rules of Bankruptcy Procedure not later than **10 days prior to the Trial Date**. Counsel for the Plaintiff may file a list of rebuttal witnesses on or before **7 days prior to the Trial Date**.

9. Counsel for the parties shall file a designation of those witnesses whose testimony is expected to be presented by means of a deposition and a redacted transcript of the pertinent portions of the deposition testimony on or before **14 days prior to the Trial Date**. Any other party may file counter designations of the redacted portions of the deposition transcript they deem relevant not later than **10 days prior to the Trial Date**. Objections to the use under Rule 7032(a) of the Federal Rules of Bankruptcy Procedure of a deposition so designated by another party shall be filed on or before **7 days prior to the Trial Date**.

10. Should a settlement be reached, counsel shall immediately file any motion required by Rule 9019 of the Federal Rules of Bankruptcy procedure for approval of the

settlement (the “Rule 9019 Motion”). Counsel shall schedule a hearing to be conducted not later than **28 days after the Trial Date** to consider any Rule 9019 Motion and for presentation of a final order.

11. It is the responsibility of all counsel to be thoroughly acquainted with and follow the procedures set forth in the statutes, the national and local bankruptcy rules, and the requirements of the Judge.

12. The Court notes for the record that the parties previously consented to the entry of a final order by the Bankruptcy Judge.

13. The Clerk shall forward a copy of this order to all counsel of record.

SO ORDERED, this ____ day of _____, 2022.

Feb 3 2022

/s/ Keith L Phillips
UNITED STATES BANKRUPTCY JUDGE

ENTERED ON DOCKET: Feb 4 2022

Endorsements on following page]

I ask for this:

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Local Rule 9022-1(C) Certification

The foregoing Order was endorsed by and/or served upon all necessary parties pursuant to Local Rule 9022-1(C).

/s/ W. R. Baldwin, III

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